IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.520 OF 2007.

The State of Maharashtra ..Applicant
V/s
Laxman Pandharinath Phadatare ..Respondent.

Mrs. A.S. Pai, APP for the applicant.
Mr. Rahul S. Kate, for the respondnet.

CORAM : R.M.S.KHANDEPARKAR AND
SMT. V.K. TAHILRAMANI, JJ.

DATE : 24TH JULY , 2007.

P.C.

. Heard Mrs. Pai, the learned APP for the applicant-State and Mr. Kate, learned Counsel for the respondent. We have also perused the Judgment and Order passed by the learned Sessions Judge, as well as record which has been produced by the learned APP.

2. The applicant-State has preferred this application for leave to file appeal against the Judgment and Order of acquittal dated 29/9/2006 passed by IV Ad-hoc Additional Sessions Judge, Satara in Sessions case No.115/2005. By the said Judgment and order the learned Sessions Judge acquitted the respondent-accused of the offence under section 376 of Indian Penal Code.

3. The prosecution case is that the respondent committed rape on the prosecutrix, who was aged about 5 to 6 years at the time of incident. The learned Sessions Judge had acquitted the respondent mainly on the ground that the medical evidence (Exh.31) does not support the case of the prosecution. We have perused the medical certificate (Exh.31) of the prosecutrix. The said medical certificate clearly states that no injuries were found on the body of the prosecutirx, no injuries were found on the private part of the prosecutrix and there is no evidence which substantiates that rape was committed on the prosecutrix. In this view of the matter, we are of the opinion that the view taken by the learned Additional Sessions Judge is a reasonable and possible view.

5. It is well settled that if the view of acquittal could have been reasonably arrived at then the mere circumstance that the appellate Court would have taken a different view, would be no ground to interfere. In this connection, there is no dearth of authorities but to eschew prolixity, we are referring to only two of them i.e. **AIR 1971 S.C. 66 Khedu Mohton and Ors. Vs.**

State of Bihar and C. Anthony Vs. K.G. Raghavan Nair (2003) 1 SCC 1. In the case of **C. Anthony,** the Supreme Court has observed that unless the findings of the trial Court are perverse or contrary to the material on record, the High Court cannot in appeal substitute its findings, merely because another contrary opinion was possible on the basis of material on record. As stated earlier, the view taken by the learned Additional Sessions Judge is a reasonable and possible view, hence, no interference is called for.

6. Application for leave to appeal is rejected.

(R.M.S. KHANDEPARKAR, J.)

(SMT. V.K.TAHILRAMANI,J.)